

APPEAL NO. 040813  
FILED MAY 26, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing was held on March 19, 2004. With respect to (Docket No. 1), the hearing officer determined that the appellant (claimant) did not have disability from July 8 through August 24, 2003, as a result of his (date of injury for Docket No. 1), compensable injury. In (Docket No. 2), the hearing officer determined that the claimant did not sustain a compensable injury on (date of injury for Docket No. 2), and that he did not have disability. In his appeal, the claimant argues that the hearing officer's determinations in Docket No. 2 are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance. The claimant did not appeal the determination in Docket No. 1 that he did not have disability from July 8 through August 24, 2003, as a result of his (date of injury for Docket No. 1), compensable injury.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on (date of injury for Docket No. 2). The claimant had the burden of proof on the injury issue and it presented a question of fact for the hearing officer to resolve. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In this instance, the hearing officer simply did not believe the claimant's testimony and evidence tending to demonstrate that he was injured pushing a roll of copper wire back on a pallet from which it was falling. The hearing officer was acting within his province as the fact finder in so finding. Nothing in our review of the record demonstrates that the hearing officer's injury determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust; therefore, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because we have affirmed the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that he did not have disability.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN ZURICH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**LEO F. MALO  
12222 MERIT DRIVE, SUITE 700  
DALLAS, TEXAS 75251.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Margaret L. Turner  
Appeals Judge